IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2083 of 2005

Between:

Hotel Tilothamma Enterprises Pvt. Ltd., Tadanki Vari Street, Governorpet, Vijayawada, rep.by its Director, Sri P.K.Swamy S/o.Late P.K.Ramaiah, R/o. Hyderabad.

..... PETITIONER

AND

The Assistant provident Fund Commissioner, Employees Provident Fund organisation, Sub-Regional office, 3rd Lane, Krishna Nagar, Guntur.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the respondent in issuing the impugned proceedings vide their proc.AP/6752/PD/SRO/GNT/Comp.II/KST/1580 dated 4-1-2005 levying the damages and interest from the year 1992 onwards for the alleged delay in payment of the contribution without issuing any prior notice after lapse of 12 years, as arbitrary, illegal and unconstitutional and in violation of the principles of natural justice and direct the respondent not to resort recover the alleged amount by coercive manners.

Counsel for the Petitioner: MR.RAMA RAO GHANTA

Counsel for the Respondent: Smt. Ch. Lakshmi Kumari.

The Court at the stage of admission made the following :

O R D E R:

This writ petition is filed aggrieved by the impugned proceedings dated 04-01-2005 issued by the respondent, in which, the petitioner-Company was called upon to appear before the respondent on 13-01-2005. It was also made clear that it was open to the petitioner-Company to send a written representation so as to reach the respondent by 13-01-2005.

In the affidavit filed in support of the writ petition, it is stated that on 13-01-2005 one of the Directors of the petitioner-Company personally went to the office of the respondent but the objections raised were not considered, but he was informed that the entire amount as specified in the impugned proceedings, shall be paid. Thereafter, the petitioner-Company submitted a representation dated 24-01-2005. However, the respondent has not passed any orders, but in the meanwhile, the respondent is taking coercive steps for recovery of the amount alleged to be due under the impugned proceedings. Therefore, the petitioner is constrained to file this writ petition.

Having heard the learned counsel for the petitioner and the learned

standing counsel appearing for the respondent, without expressing any opinion as to the various contentions raised by the petitioner-Company with regard to the competency of the respondent to issue the impugned proceedings, the writ petition is disposed of granting liberty to the petitioner-Company to appear before the respondent on 16-02-2005 and to submit its explanation to the impugned proceedings raising all the objections. If the petitioner-Company appears before the respondent on 16-02-2005, the objections raised by it shall be considered and appropriate orders be passed by the respondent in accordance with law. Till such orders are passed, the interim order granted by this Court dated 09-02-2005 not to take any coercive steps against the petitioner-Company in pursuance of the impugned proceedings dated 04-01-2005 shall continue. No costs.

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(G. ROHINI, J)

Date: 10-02-2004

ghn

Note:- Cc by 14-02-2005.

(B/O)

ghn/gbs

To

1. The Assistant provident Fund Commissioner, Employees Provident Fund organisation, Sub-Regional office, 3rd Lane, Krishna Nagar, Guntur.

2 Two CD copies.